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Summary record of the 30th meeting
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Chairman: Mr. Kuchinsky ..... (Ukraine)
later: Ms. Groux (Vice-Chairman) ..... (Switzerland)

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The meeting was called to order at 10.25 a.m.

Agenda item 105: Human rights questions (*continued*) (A/59/225, 371 and 425)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/59/255, 319-320, 323, 327-328, 341, 360, 366, 377, 385, 401-403, 422, 428, 432, 436 and 525)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/59/256, 269, 311, 316, 340, 352, 367, 370, 378, 389 and 413; A/C.3/59/3)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/59/36)

1. **Mr. Khane** (Secretary of the Committee) informed members that the Independent Expert of the Commission on Human Rights on the situation of human rights in Burundi would not be able to address the Committee because he had not been issued the required visa for entry into the United States in time. His report on the implementation of Commission on Human Rights resolution 2004/82, covering his mission to Burundi in October 2004, would be submitted at the Commission's sixty-first session in April 2005.

2. **Mr. Pacéré** (Independent Expert of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo), responding to a question put by the Netherlands on immunity and on cooperation between the Congolese authorities and the International Criminal Court, described the conditions that the Congolese Government must fulfil before cooperation with the Court was possible, namely, the adoption of implementing legislation for the Rome Statute, the conclusion of a cooperation agreement with the Court and the ratification of the Agreement on the Privileges and Immunities of the International Criminal Court. On 6 October 2004, the Democratic Republic of the Congo and the Office of the Prosecutor had concluded an agreement on judicial cooperation, and since 12 October 2004, the date of the signing of the Agreement between the Court and the Democratic Republic on the privileges and immunities of the Court, the Court had been able to continue investigating crimes, especially those committed in the north-east of the country, where, according to the radio station of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), there had been between 5,000 and 8,000 murders since July 2002. As to the establishment of an international criminal tribunal, the situation prevailing in the Democratic Republic seriously impeded the functioning of the justice system, which found itself at an impasse. The most senior magistrates of the country drew extremely low salaries, and furthermore there were not enough of them to administer justice and fight corruption — there being 375 magistrates for 55 million inhabitants — and they had neither the equipment nor the infrastructures needed. The number of judges would have to rise to 10,000 within two or three years, which was impossible. Consequently, not only must the established judicial institutions be buttressed but international judicial intervention must be arranged.

3. Based on his interviews with the highest authorities of the country, and especially the Minister of Human Rights, it was urgent for the international community to provide assistance in a number of areas, such as the consolidation, promotion and protection of human rights, particularly by ensuring that security officers received proper training, and for it to take a number of steps, especially in order to maintain control of the detention centres or to ensure the advancement and protection of vulnerable persons. A round table held on 6 and 7 September 2004 on strategies for combating impunity had, in fact, led to decisions about specific action to be taken.

4. In answer to Canada's questions about sexual violence and about refugees, it should be said at the outset that the problem of sexual attacks was one of the most serious in the Democratic Republic of the Congo, where, paradoxically, rape had become a weapon of war, a post-war weapon, a form of war booty, that was at once a sign of victory and a lasting trace of victory. Rape had now, unfortunately, become part of the culture of war. According to a document issued on 30 August 2004 by the Office of the United Nations High Commissioner for Human Rights, about 5,000 women were reported to have been raped between 2002 and February 2003 in the Kivu region. The victims, women or young girls, had often reportedly been

deliberately wounded or killed and been unable to receive any care because of the inadequate medical and psychological structures in place. Citing passages from a 2002 Human Rights Watch report, he gave an eloquent account of some of the atrocities committed against women and girls, underscoring the seriousness of the situation and the fact that such acts were still going on at that very moment. So long as there was no system capable of dissuading people from perpetrating crimes, they would go on committing their outrages with total impunity. It was therefore important to establish an international criminal tribunal to combat such heinous behaviour.

5. With regard to refugees, a great many of whom had fled the latest fighting and been taken into camps in Burundi, it was possible that ethnic tensions in the Democratic Republic of the Congo were behind the refusal of the Congolese authorities to allow some of the refugees to return home, as a way of avoiding their massacre. While individual solutions were sometimes found, the refugee problem was still a real crisis in the country. The Truth and Reconciliation Commission was working with other institutions to try to institute peaceful and lasting coexistence among the ethnic groups and inspire greater tolerance towards refugees. On 24 and 25 August 2004, the Ugandan Government had received Rwandan and Congolese representatives, and they too were trying to promote tolerance among and within ethnic groups, as a possible solution to the refugee problem.

6. **The Chairman** recalled that since the special rapporteurs were in New York for a very brief time, it was impossible to postpone their presentations, as some delegations had requested.

7. **Ms. Hastaie** (Islamic Republic of Iran) said that while she would not contest that decision, she wished to point out that delegations, especially the smaller ones, had to be informed well enough in advance about what was scheduled at meetings to allow them to make the necessary arrangements.

8. **Mr. Addo** (Independent Expert of the Commission on Human Rights on the situation of human rights in the Sudan), observing that he had been appointed pursuant to Commission on Human Rights resolution 2004/128, outlined the salient points of the report that he would subsequently be submitting to the General Assembly. During his visit to Sudan from 19 to 29 August 2004 and to Nairobi from 30 to 31 August 2004, he had met with representatives of the Sudan People's Liberation Movement/Army and spoken with a number of representatives of the authorities in Khartoum, non-governmental organizations, political parties and civil society and human rights groups, and also with displaced persons in the interior of the country. He had gone to Nyala in the state of South Darfur and visited the Kalma camp sheltering some 90,000 displaced persons.

9. During his visit in the field, he had learned that the human rights crisis in the Darfur region had escalated in February 2003, when the Sudan Liberation Army had attacked Government security forces and the airport of El-Fasher, capital of the state of North Darfur, reportedly killing 70 military personnel. The Government had tried to put down the two rebel movements in the region, namely, the Sudan Liberation Movement/Army and the Justice and Equality Movement, and had unleashed the Popular Defence Forces and the Janjaweed militias against innocent civilians belonging to the same tribe as the rebels. As a result, about one and one-half million civilians had been displaced internally in the past months. In addition, about 500,000 people had fled to neighbouring Chad. An estimated 50,000 civilians were feared dead, but the true number might never be known. Instead of fighting the rebels, the Government and the Janjaweed militias had waged a systematic campaign against the unarmed civilian population. The counter-insurgency warfare conducted with highly advanced weaponry by the Sudanese Government against its own citizens could not be countenanced because it tended towards indiscriminate, massive destruction.

10. It would be recalled that the African Union had been given a far-reaching mandate by its Peace and Security Council. There were strong indications that war crimes had been committed in Darfur — murder, torture, rape and intentional attacks against civilians — and also that crimes against humanity had been committed there — killings, forcible displacements and rapes as part of a systematic attack on the civilian population.

11. The two-party framework for the ongoing peace talks in Sudan was not adequate to address all the armed conflicts currently taking place in the country, especially the long-running rebellions in the three areas of Abyei province, the Nuba mountains and the state of South Blue Nile and the more recent outbreaks of

conflict in Darfur. Indeed, those who felt ignored in the peace talks sponsored by the Intergovernmental Authority on Development could well undermine any agreement reached between only the Khartoum Government and the Sudan People's Liberation Movement/Army. It was vital to take their grievances into account. The Malakal area and the Beja communities in the states of Unity and Kassala were also trouble spots that must not be overlooked. Everyone to whom he had spoken had expressed a desire for a democratic transformation and the restoration of the rule of law in the country; yet regrettably, the Janjaweed had not yet been disarmed.

12. The African Union must consider sending more troops to Sudan to protect the displaced persons and civilians. Clearly, the Government was unable or unwilling to disarm the militias, and was therefore unable to protect them. Consideration should be given to broadening the mandate of the troops deployed to allow them to disarm the militias, which could be done with the support and backing of the United Nations and the entire international community.

13. **Mr. Erwa** (Sudan) took exception to the report of the Independent Expert on the situation of human rights in the Sudan, which he found to be an oversimplified, not to say naive, presentation of the situation, giving too much weight to the political dimensions of the problems. He asked the Independent Expert exactly how many days in the course of his visit to the Sudan he had spent in Darfur. As to the figures he had given, they did not jibe with those in other United Nations documents and, as the Independent Expert himself had noted, the true number might never be known.

14. It was axiomatic that during a period of conflict in a country human rights inevitably suffered. The Independent Expert's mandate was not to delve into the reasons for the conflict but into its repercussions on human rights and he had shown clear bias against the Government in carrying out his mission. The approach taken showed an extraordinary ignorance of the region and of the complications stemming from the tribal dimension of the conflict, and it was astonishing that after a visit of ten days, two of them spent in Darfur, 90 per cent of the report should give such an arbitrary account of the situation in the Sudan. His delegation intended to submit its arguments in writing so that they could be circulated as Third Committee documents.

15. **Mr. Faber** (Netherlands), speaking on behalf of the European Union, and referring to violence against women, cited an excerpt from the statement made by the Secretary-General on 6 July 2004 in Addis Ababa during the African Union Session on Gender, to the effect that in the Darfur region of the Sudan, gender-based violence had reached almost epidemic proportions, and asked whether the Independent Expert had made violence against women one of his priorities. It would also be interesting to know what kind of cooperation he foresaw with the international commission of inquiry and with the human rights monitors currently in Darfur. In that connection, he wondered to what degree the Sudanese Government had cooperated with him as he had carried out his mandate. Lastly, he would like the Independent Expert's assessment of the situation in the other regions of the country and of how the international community could help to establish the rule of law and a respect for human rights in the Sudan at the conclusion of the peace process.

16. **Mr. Scott** (United States of America) asked the Independent Expert on what date he planned to return to Sudan and strongly encouraged him to submit his report immediately after his return so that Member States could be informed as soon as possible about how the situation was unfolding.

17. **Mr. Normandin** (Canada), welcoming the increased presence of the African Union in Darfur and the larger number of human rights monitors deployed to the Sudan by the Office of the United Nations High Commissioner for Human Rights, asked what, in the Independent Expert's opinion, the international community could do to protect human rights in the Sudan.

18. **Mr. Vigny** (Switzerland) asked if the Independent Expert intended to delve into the underlying causes for the outbreaks of conflict in the Sudan, given the general deterioration of the human rights situation in the country and especially the exclusion of entire regions from the political and social life of the country.

19. **Mr. Addo** (Independent Expert of the Commission on Human Rights on the situation of human rights in the Sudan), replying first to the Sudanese delegation, said that he had spent ten days in the Sudan, two of them in Darfur, and that had been enough for him to judge the extent of what was happening there. He believed that the problem in the

country stemmed basically from the fact that other tribes and population groups in the Sudan felt excluded from the peace process. As a result, they did not consider themselves bound by a bilateral process to which only the Sudan People's Liberation Movement/Army and the Government were committed. To succeed in restoring peace, an appeal must thus be made to all the concerned parties in the country. Regarding the protection of civilians in the Sudan, he recalled that it was the responsibility of the Government to ensure the protection of its citizens. Yet, as the Sudanese Minister of Defence himself had admitted, there had been instances in which bombs aimed at insurgents had missed their targets and killed civilians.

20. In answer to the representative of the Netherlands, he was certainly making the gender dimension of the situation a priority. His report, which would be issued in March 2005, would duly attest to that. In addition, he was fully prepared to give his views to the international commission of inquiry, if it asked him to do so. As to the situation in the other regions of the Sudan, the main point was that the prevailing feeling was one of marginalization. The Government must not be satisfied with listening only to those bearing arms: it must also pay attention to the political parties that had argued in vain for democratic change. The capacity had to be built at the national level to put an end to arbitrary detentions and the climate of impunity and to sustain the process of democratization. As for the international community, it could and must help to re-establish peace, in particular by dispatching troop reinforcements to the scene and by disarming the Janjaweed militias, because the Government was not succeeding in doing so.

21. In response to the United States delegation, he said that he intended to return to the Sudan in January 2005, hoping that a peace accord would have been reached by then, thus allowing him to make a more favourable report of the situation in the country.

22. Concerning Switzerland's question, the underlying causes of the problem were the underdevelopment of most regions of the country — the local population in certain regions, for instance, received none of the profits from the gold mining activities there — and the fact that the Arab language and culture had been imposed on the different tribes in the Sudan. He recalled that the right of such peoples to respect for their culture was guaranteed in the International Covenant on Civil and Political Rights. In order to end the long-standing resentment of the tribal peoples who had been treated as expendable, they had to be given the possibility of expressing themselves in their own languages and they must stop being excluded from the peace process.

23. **Mr. Erwa** (Sudan) said it was not within the purview of the Committee to discuss matters of peace and security or the marginalization of certain regions. He once again contested the mandate of the Independent Expert. Sudan had about 30 million inhabitants, since the Independent Expert could not conceivably have met 20 million of them, there was no way that he could base his conclusions on views allegedly expressed by the majority of the population. Any reference to political parties and their positions also went beyond the bounds of the work of the Committee. As for impunity, he emphasized that the Sudanese authorities were properly following up on reports of rape in particular, and were deploying adequate numbers of officials to investigate them.

24. **Mr. Hunt** (Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health) said that he would be submitting to the Commission on Human Rights in 2005 reports on his country missions to Mozambique, Peru and Romania.

25. In his reports to the Commission on Human Rights and the General Assembly, he selected aspects of the right to health that demanded careful examination. In 2004, he had looked at sexual and reproductive health. In 2005, he would focus on mental health. Many other dimensions of the right to health deserved special attention, and only by approaching each of them step-by-step was it possible to build a complete picture of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

26. His current report (A/59/422) addressed three topics. First, he called on the international community to cooperate urgently at all levels to redress the disparities that existed around the world between the health of indigenous peoples and that of others. The Permanent Forum on Indigenous Issues had called on him twice to pay special attention to the right to health of indigenous peoples, which raised sensitive cultural issues such as access to traditional medicine and important legal issues such as the right to health

enshrined in treaties. The report emphasized the seriousness of those issues and signalled his intention to explore them in future, including in one of his forthcoming country mission reports.

27. Secondly, a chapter of the report was devoted to the way in which States might monitor the progressive achievement of the right to health. Using indicators and benchmarks was the best way of doing so. In his previous report to the General Assembly, he had outlined a methodology for the use of indicators and benchmarks with respect to the right to health. In his current report, he had applied that methodology experimentally to child survival. He had identified some indicators not only for all the countries concerned and also for donors, as indicators were needed in order to monitor the degree to which they were providing international assistance and cooperation to achieve the right to health in developing countries, and urged States to submit written or oral comments to him on the matter.

28. Thirdly, the major chapter of his report examined the health-related Millennium Development Goals. No other international commitments and policy objectives had attracted as much sustained attention since the founding of the United Nations in 1945, and the entire United Nations system was giving priority to achieving them.

29. One of the most striking features of the Goals was that four out of eight were directly related to health. To its credit, the Millennium Campaign used the human rights framework in its advocacy work, but, to his surprise, human rights received only slight attention in all of the literature on the Millennium Development Goals.

30. The Millennium Project, an advisory body entrusted by the Secretary-General to analyse the Goals and identify strategies for their achievement, had appointed 250 eminent scholars and practitioners organized into ten task forces, each of which examined a vital element of the Goals. For the most part, the reports of the task forces and the more than 60 country-level reports on the Goals gave scant attention to the right to health and other human rights, which contradicted the statement by the Secretary-General that "economic, social and cultural rights are at the heart of all the millennium development goals ..." (A/56/326, para. 202). Given that international human rights provided a normative framework for national and international policies designed to achieve the Millennium Development Goals, human rights and the Goals were complementary. The Millennium Project was preparing a global plan to achieve the Millennium Development Goals, and the Secretary-General would publish a report on the Millennium Declaration and the Goals in 2005. It was important that those two crucial documents should clearly highlight the human rights normative framework that underpinned and complemented the Millennium Declaration and Millennium Development Goals.

31. In his report, he briefly explored the contribution that the right to health made to the health-related Millennium Development Goals. The principles of non-discrimination and equality could help the most disadvantaged and marginalized persons to benefit from the Goals. The right to health could help to ensure the widest possible participation in decision-making and see to it that sectoral health interventions to combat malaria, tuberculosis and HIV/AIDS strengthened health systems and that health professionals received the serious attention that they deserved. The right to health strengthened the sexual and reproductive health components of the Millennium Development Goals such as HIV/AIDS and maternal health.

32. For many developing countries, achieving the health-related Goals depended on developed States' honouring their commitments under Millennium Development Goal 8, concerning a global partnership for development, which would not exempt them from the responsibility of doing all that they could to achieve those Goals themselves.

33. He suggested strengthening the mechanisms of accountability, particularly with respect to Goal 8. If the international community was not able to establish an effective and transparent accountability mechanism, then developing countries might wish to establish their own independent mechanism in order to meet their commitments concerning Goal 8.

34. **Mr. Cardoso** (Brazil) associated himself with the views of the Special Rapporteur, particularly when he emphasized that the right to health could contribute to the achievement of the health-related Millennium Development Goals. He asked the Special Rapporteur to explain the new techniques and skills that he considered necessary to promote and protect the right to health.

35. **Mr. Faber** (Netherlands), speaking on behalf of the European Union, in reference to paragraph 29 of the report, asked the Special Rapporteur to give examples of the way Governments might avoid the flight of skilled workers from developing countries towards developed countries while respecting the freedom of choice of health-care professionals. He would also like further information on the additional techniques referred to in paragraph 54 of his report that must be used to better incorporate human rights in measures to achieve the Millennium Development Goals. Referring to paragraph 72, he wondered if the Special Rapporteur had had the opportunity to submit the indicators that he had set forth to the Committee on the Rights of the Child and, if so, what its reaction had been.

36. **Mr. McGuire** (Grenada) wondered if the Special Rapporteur knew why the Millennium Project task forces had given only scant attention to the right to health, which he, a professor of public health, considered to be a crucial human right.

37. **Mr. Vigny** (Switzerland) urged the Special Rapporteur to continue to devise a methodology for the use of indicators and benchmarks with respect to the right to health as he had done in his previous report (E/CN.4/2004/49) and the current report. He hoped that the United Nations High Commissioner for Human Rights would request States, treaty bodies, and relevant international organizations and non-governmental organizations to give their views on that methodology. Concerning paragraphs 51 and 52 of the report, he would like the Special Rapporteur to indicate what should be included in the global plan to achieve the health-related Millennium Development Goals.

38. **Ms. Dempster** (New Zealand) wondered about the kind of cooperation that existed between the Special Rapporteur and the Permanent Forum on Indigenous Issues.

39. **Mr. Normandin** (Canada), referring to the correlation between the right to health and the implementation of poverty-reduction strategies, asked the Special Rapporteur for information on his activities and projects in that area.

40. **Mr. La** Yifan (China), concurring with the Special Rapporteur that respect for the right to health helps to further the Millennium Development Goals, said that he hoped the report would be useful to the health professionals in his country and was pleased that the Special Rapporteur would be doing his next report on mental health, which his delegation considered an important subject.

41. *Ms. Groux (Switzerland), Vice-Chairman, took the Chair.*

42. **Mr. Hunt** (Special Rapporteur of the Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health), replying to the questions of Brazil and the Netherlands concerning new skills and techniques, observed that the traditional techniques — letter-writing campaigns, slogans aimed at raising the public's awareness of human rights, court cases — played a key role in promoting and protecting the right to health. However, the incorporation of the right to health into national and international policy decisions required the use of techniques that could track its progressive realization as well as expertise in reconciling the national political decisions, often conditioned by limited resources, and the international obligations with respect to the right to health. Far from being pessimistic, he believed that the difficulties that the international community was encountering in that area were a sign that there had been some progress towards realizing the right to health.

43. Regarding the brain drain to which the Netherlands had referred, he was currently studying its effects on the right to enjoy the highest attainable standard of health, and he would present his conclusions in his next report in 2005.

44. As to whether he had consulted the Committee on the Rights of the Child regarding the indicators and criteria that he had defined, he had not thought it appropriate to refer in his report to his consultations on the subject with that Committee because it had not formally given him its approval, but he did maintain informal relations with the Committee, especially one of its members.

45. Before answering Grenada's question, he expressed satisfaction that Task Force 4 of the Millennium Project, dealing with child and maternal health, was giving special attention in its report of its activities to the right to health. The other Task Forces did not take a direct interest in the right to health because each one was specialized in a particular field and there was no exchange between the different disciplines. He was endeavouring to communicate with the specialists in each different area and was urging

health professionals to establish more contacts with other human rights specialists in order to familiarize them with the right to health.

46. In response to Switzerland's question about the global plan to achieve the Millennium Development Goals, he referred the members of the Committee to paragraph 51 of his report (A/59/422) and pointed out the main idea was to emphasize that the Goals and the framework of human rights law complemented each other.

47. Regarding New Zealand's question concerning cooperation with the Permanent Forum on Indigenous Issues, he was endeavouring, within the limits of the resources and time at his disposal, to maintain relations with different bodies to familiarize them with the right to health and, insofar as possible, act in conjunction with them.

48. Concerning the poverty reduction strategies, he recalled that in his previous report (E/CN.4/2004/49) he had, for example, devoted an entire section to the Niger's poverty reduction strategy, which he believed was well thought out but would have been reinforced by a more specific consideration of the right to health. In December, he would be discussing the question with the World Bank. He wished to encourage and, where possible, help States to integrate the right to health into national and international policies.

49. **Mr. Cumberbach** (Cuba) asked if the Special Rapporteur had any plans to analyse the impact of the drafting of a code of conduct for the transnational societies that dominated the medicinal drug market and the negotiation of agreements governing patents and intellectual property rights relevant to the right to health. He also wondered if the Special Rapporteur had learned of any projects in the context of South-South cooperation and if in his future study of North-South and South-South cooperation he intended to study the effects of such projects on the right to health.

50. **Mr. Hunt** (Special Rapporteur of the Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health) referred the representative of Cuba to the report that he had prepared following his mission to the World Trade Organization (E/CN.4/2004/49/Add.1), where he would find the answer to those questions, and he underscored that he was continuing to give thought to the issue of trade liberalization.

51. **Ms. Ertürk** (Special Rapporteur of the Commission on Human Rights on violence against women, including its causes and consequences) observed that the 10 years that had elapsed since the post of Special Rapporteur had been created had shown that violence against women was not a fate and that it could be stopped. After she had assumed her mandate in August 2003, she had undertaken missions to El Salvador, Guatemala and the occupied Palestinian territories, and participated in two regional consultations organized by non-governmental organizations, the first one, for Asia and the Pacific, held in Jakarta and the second one, for Africa, held in Khartoum. She had taken the opportunity to travel to Darfur as well to assess the allegations of human rights violations directed against women. Both meetings had been followed by a one-day national consultation with women's groups in the host countries. Her planned visits to the Russian Federation and Afghanistan had had to be postponed for security reasons. In February 2005, she was scheduled to visit Mexico, and was awaiting confirmation of the dates for her visits to the Islamic Republic of Iran and Algeria. The reports she would be submitting to the sixty-first session of the Commission on Human Rights would contain comments and conclusions on her missions.

52. Violence against women was a persistent problem in all countries but, unlike other forms of human rights violations, it was not confined to a specific situation, time or group. Violence against women, which knew no cultural or geographical boundaries, had become one of the top priorities of the international community and of many Member States. The promotion of equality between women and men and the protection of the basic rights of women had in 2003 been advanced at the international level by the adoption of General Assembly resolution 58/185 calling for an in-depth study on all forms and manifestations of violence against women; the adoption by the Commission on the Status of Women of agreed conclusions concerning the role of men in achieving gender equality and equal participation by women in conflict resolution and peacebuilding; and the declaration issued by women foreign ministers and other dignitaries on 16 March 2004 during the high-level segment of the Commission on Human Rights, together with the attention given to violence against women during the debate. She urged States to ratify the international human rights instruments, withdraw any reservations, comply with reporting obligations and effectively implement the norms. One hundred seventy-nine States were parties to the Convention on the Elimination of All Forms of

Discrimination against Women, whereas ratification of the Optional Protocol to it was lagging. The recent address by the United Nations High Commissioner for Human Rights to the Security Council and the adoption of a resolution on honour crimes by the Third Committee were also worthy of note. Nevertheless she was concerned over the alarming trends spurred by a growing political conservatism that threatened the gains made thus far, particularly with regard to women's health and reproductive rights.

53. In her initial report to the Commission on Human Rights on the effective implementation of international norms to end violence against women (E/CN.4/2004/66), she had emphasized the universality of the violence, the multiplicity of its forms and the cross-sectoral nature of the diverse forms of the discrimination against women that was found in all systems of subordination and inequality. New issues and concerns were continually emerging, necessitating the setting of new standards and new strategies for implementation. In that connection, she welcomed the adoption in 2003 of the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights.

54. The increased politicization of culture was a matter of concern, especially in the form of religious fundamentalism, for the management of conflicts based on cultural and religious specificities often resulted in the justification of violence against women both within and between the conflicting groups. A constructive dialogue on the common values in the human rights heritage was critical in resisting such ideologies.

55. At the national level, she proposed to take action on three levels: the State, the community and the individual women themselves. At the State level, the emphasis would be placed on due diligence to prevent and punish acts of violence against women, making it a point not to replace criminal sanctions by methods of conciliation. At the community level, which encompassed families and other non-State actors, there had to be a cultural dialogue to raise awareness of the oppressive nature of practices upheld in the name of culture or religion. At the individual level, an empowerment approach supported by protective and compensatory mechanisms had to be adopted. Lastly, at the international level, there had to be a better understanding of the dynamics at work before further intervention strategies could be developed. The three-tier approach would make it possible to ensure women's access to justice, State compliance and accountability and the development of monitoring mechanisms that allowed an assessment of the compliance of States with the legal norms. As stated in paragraph 58 of her report, the achievement of gender justice was, first and foremost, a matter of political will and determination. An accurate assessment of State implementation, however, required measurable and comparable indicators of gender justice and State accountability, time-bound targets and a complex set of disaggregated data that revealed the links between the multiple forms of discrimination, and also required the inclusion of women in the budgeting process, another powerful tool that should be further explored.

56. With reference to HIV/AIDS, its interconnection with women's human rights should be emphasized, women being particularly vulnerable owing not only to their biological make-up but also to economic and social inequalities and culturally accepted sexual roles that placed them in a subordinate position. That would, in fact, be the subject of her 2005 report.

57. The past decade had witnessed the establishment of norms, and the time had now come for action.

58. **Mr. Hof** (Netherlands), speaking on behalf of the European Union, asked what measures should be taken at the national, regional and international levels to remedy the lack of data on violence against women. He also asked the Special Rapporteur, who had welcomed the adoption by the Third Committee of the draft resolution entitled "Working towards the elimination of crimes against women and girls committed in the name of honour" (A/C.3/59/L.25), what specific legal provisions should be established in that regard. He would also like to know to what extent the inclusion of women in the development, formulation and implementation of the budget could help eliminate violence against women. Lastly, he enquired what could be done to ensure that women victims of violence were given remedies and protection, in particular access to legal aid and shelters.

59. **Mr. Cho** Tae-ick (Republic of Korea) recalled that, during the open debate that it had held the day before the first anniversary of the adoption of resolution 1325 (2000), the Security Council had stressed that it was vital for the international community and for the parties to a conflict to take more vigorous measures during and after conflicts to avert further acts of violence against women and girls, and to bring the perpetrators of such acts to justice, with a view to preventing a culture of impunity. Members of armed forces and other government forces who were guilty of crimes of sexual violence must be

prosecuted. His delegation wondered what had been the result of the follow up to the implementation of the recommendations made by the previous Special Rapporteur. Since acts of violence within the family were often not reported, and since women who suffered from economic, social or political disempowerment were more likely to be victims of violence, campaigns should be organized to combat that violence, and measures taken to strengthen women's ability to take action. He asked the Special Rapporteur what she intended to do in that regard.

60. **Ms. Taracena** (Guatemala), thanking the Special Rapporteur for visiting her country, said that she would like to know when the report would be ready, because violence against women was a priority topic for her Government. Guatemala had participated, moreover, in the debate that had taken place in the Security Council on the anniversary of the adoption of resolution 1325 (2000).

61. **Ms. Hill** (New Zealand), observing that the problem of HIV/AIDS, for example, was barely mentioned in the Beijing Platform for Action, asked the Special Rapporteur to what extent the commitments made in Beijing assisted her in the work that she was doing to eliminate violence against women. She would also like to know in what ways States could exercise due diligence in preventing violence against women. Lastly, since New Zealand was seeking at the national level to ensure that action to prevent violence in the family corresponded culturally to the various groups that made up that country, she wondered how the strategies adopted for various countries that the Special Rapporteur had been considering were adapted to different cultures.

62. **Ms. Ertürk** (Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences), replying to the Netherlands, said that, in fact, the lack of data posed a major problem for follow-up. To her knowledge, there was no systematic collection of data anywhere in the world concerning violence against women. Moreover, such violence was not recognized either by the victims or the perpetrators as a crime or a grave violation of women's fundamental rights. It was necessary, therefore, to conduct simultaneous awareness-raising and documentation work, on reported cases of violence. To address the problems of methodology, she had contacted the Statistics Division of the Department of Economic and Social Affairs, whose area of expertise was indices and indicators. Since developing a methodology was a work in progress, she asked that anyone who was involved in the collection of data and indicators on violence against women get in touch with her. Although human rights legislation was essential, it was not enough. A cultural dialogue must begin, because acts of violence were often justified by cultural considerations. She stressed that legal measures, an awareness campaign and a cultural dialogue must all be undertaken at the same time. The inclusion of women in preparing budgets might prove useful in eliminating violence against women since budgets were the only area in which accountability occurred. If an issue appeared in a budget, it was certain to be acted upon. That said, a methodology must be developed since the question of women was rarely included in the preparation of a budget.

63. Replying to the Republic of Korea, she said that the international community had characterized rape as a war crime because horrible violations were committed against women during armed conflicts. However, war was not so different from peace from the standpoint of violations: violence began in the family and was justified on various grounds. Since acts of violence against women were continual, and because all facets of the problem were linked, it was not appropriate to be selective. As for monitoring mechanisms, she pointed out that rapporteurs worked on a voluntary basis and had very limited resources at their disposal. It was hoped that a way would be found to improve monitoring and link the work of all rapporteurs. Lastly, replying to the final question raised by the Republic of Korea, she emphasized that violence in the family was not recognized as such; it was considered simply as a relationship problem between spouses or among members of the family.

64. In reply to the question posed by Guatemala, she said that her report would not be ready before December 2004.

65. Responding to New Zealand, she said that the previous Special Rapporteur had tried to study the problem of due diligence on the part of States. It was important to consider the obstacles hindering women from having access to justice and the link between such obstacles and the matter of due diligence. She hoped to offer clarifications on that point in her 2006 report. The question of cultural differences was a major problem. Since violence was a universal phenomenon, it should be considered in a specific way, without imposing either cultural or geographical limitations. Dialogue was of course essential.

The meeting rose at 1 p.m.